

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

THOMAS R. BARTZ,

Plaintiff,

v.

COMMISSIONER OF THE SOCIAL
SECURITY ADMINISTRATION,

Defendant.

Case No. 17-CV-783-JPS

ORDER

Thomas R. Bartz filed a complaint in this matter and a motion for leave to proceed *in forma pauperis*. (Docket #1 and #4). The Court may grant the plaintiff's motion to proceed *in forma pauperis* if it determines that: (1) the plaintiff is truly indigent and unable to pay the costs of commencing this action; and (2) the plaintiff's action is neither frivolous nor malicious. 28 U.S.C. §§ 1915(a), (e)(2).

As to the first requirement, the privilege to proceed without payment of costs and fees "is reserved to the many truly impoverished litigants who...would remain without legal remedy if such privilege were not afforded to them." *Brewster v. North Am. Van Lines, Inc.*, 461 F.2d 649, 651 (7th Cir. 1972). The plaintiff's motion to proceed *in forma pauperis* demonstrates that he is indigent. (Docket #4). More precisely, the plaintiff attests in his motion that he is unemployed and has a monthly income of \$450. *Id.* at 1-2. The plaintiff also attests that in the past year he had income of \$5,000. *Id.* at 2. He has a monthly mortgage payment of \$750 and other monthly expenses of \$655, for a total of \$1,405 in monthly expenses. *Id.* at 2-3. The plaintiff owns a vehicle worth \$1,500 and a home

in which he has \$27,000 of equity. *Id.* at 3. He has \$500 in a bank account but indicates that those funds are earmarked for next month's bills. *Id.* at 3-4. He has a 401K worth \$25,000, but took a loan against the account and therefore cannot withdraw from it. *Id.* at 4. The plaintiff collects food stamps and relies on his parents to provide funds sufficient to cover the balance of his monthly expenses. *Id.* The Court is satisfied that the plaintiff is indigent and cannot afford the filing fee.

The plaintiff's action also is not frivolous or malicious. The complaint includes allegations that the Administrative Law Judge ("ALJ") erred in reaching a decision. (Docket #1 at 4). If that contention is true, then the Court will be obliged to vacate the decision. Thus, the plaintiff's action is neither frivolous nor malicious.

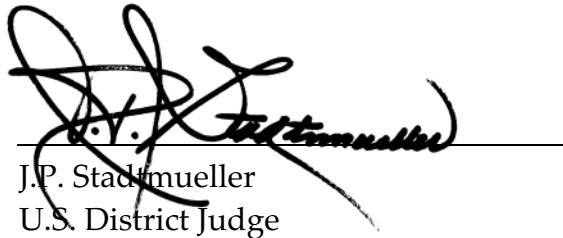
For those reasons, the Court will grant the plaintiff's motion for leave to proceed *in forma pauperis*.

Accordingly,

IT IS ORDERED that the plaintiff's motion for leave to proceed *in forma pauperis* (Docket #4) be and the same is hereby **GRANTED**.

Dated at Milwaukee, Wisconsin, this 6th day of June, 2017.

BY THE COURT:



J.P. Stadtmueller
U.S. District Judge